

UNITED STATES DISTRICT COURT

for the
Eastern District of Pennsylvania

In the Matter of the Search of
*(Briefly describe the property to be searched
 or identify the person by name and address)*
 Five Cellular Phones,
 as described on Attachment A

Case No. 18-1386-M

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*

Five cellular phones, as described on Attachment A, in the possession of Special Agents of the Dept. of Homeland Security

located in the Eastern District of Pennsylvania, there is now concealed *(identify the person or describe the property to be seized):*

Five cellular phones, as described on Attachment A, currently in possession of Special Agents of the Department of Homeland Security, Philadelphia, Pennsylvania.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

21 U.S.C. Section 846

21 U.S.C. Section 841(a)(1)

Offense Description

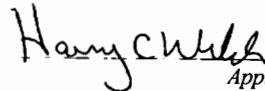
Conspiracy to distribute 1 kilo or more of heroin and 400 g. or more of fentanyl

Possession with intent to distribute 1 kilo or more of heroin/400 g. or more of fentanyl

The application is based on these facts:
 See Attached Affidavit, incorporated here by reference.

☒ Continued on the attached sheet.

☐ Delayed notice of days (give exact ending date if more than 30 days:) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

Harry C. Ubele, Special Agent, DHS

Printed name and title

Sworn to before me and signed in my presence.

Date:

8.29.18



Judge's signature

City and state: Philadelphia, Pennsylvania

Hon. Timothy R. Rice, U. S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Harry C. Ubele, being first duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I am an investigator or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered to conduct investigations of, and to make arrests for, the offenses enumerated in Titles 8, 18, 19, 21, and 31 of the United States Code and other related offenses.
2. I have been employed as a Special Agent by Homeland Security Investigations ("HSI") since January 2003. Since becoming a Special Agent, I have participated in numerous investigations into suspected international controlled substances trafficking and money laundering. I have executed numerous seizure, search, and arrest warrants. I am currently assigned to the Philadelphia Special Agent in Charge HSI Office, Airport Investigations Group.
3. In addition to my investigative experience, I have successfully completed the Criminal Investigator Training Program, United States Customs Academy Special Agent Training. I have earned a Bachelor's degree in Criminal Justice from University of North Florida.
4. The information set forth below is drawn from my personal knowledge and observations, discussions with other HSI agents as well as other law enforcement officers, and information received from witnesses, confidential sources, and other law enforcement resources and efforts. This affidavit does not include every fact known to me concerning the investigation, and instead contains only those facts that I believe establish probable cause to support the issuance of the search warrant.

PURPOSE

5. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant authorizing the search, examination and extraction of certain data from:
 - a. One Samsung cellular phone IMEI #355417 09 872443 5 ("Phone 1"); and
 - b. One iPhone, red and black in color, ("Phone 2"); and
 - c. One LG cellular telephone, black and silver in color ("Phone 3"); and
 - d. One LG cellular telephone, black and gray in color ("Phone 4"); and
 - e. One iPhone, pink and white in color, ("Phone 5")

6. Phones 1 through 5 are presently in the possession of law enforcement and are securely stored in the offices of HSI at the Philadelphia International Airport ("PHIL"). Based on my knowledge and experience, I know that the subject devices have been stored in a manner in which their contents are, to the extent material to this investigation, in substantially the same state as they were when they first came into the possession of HSI.

PROBABLE CAUSE

7. On Monday, August 20, 2018, your affiant and members of Homeland Security Investigations along with members of the Pennsylvania State Police and Bureau of Narcotics Investigation were conducting a narcotics investigation in the (PSP) City and County of Philadelphia. Your affiant was aware of a large shipment of heroin and fentanyl being delivered in Philadelphia. It was determined that the delivery was to take place at the Home 2 Suites, located at 1200 Arch Street.

8. At approx. 1910 hours, Special Agents observed four (4) Hispanic males arriving at the Home 2 Suites in a white Volkswagen Passat, bearing Pennsylvania temporary registration, 1455134. Two (2) of the Hispanic males, subsequently identified as Kenneth RIVAS and Richard GALLARDO, entered the hotel after retrieving a black and red Nike Air backpack out of the trunk of the Volkswagen Passat. The other two (2) males, subsequently identified as Jesus LOPEZ and Flavio GONZALEZ drove off and remained under surveillance. RIVAS and GALLARDO were observed meeting with a confidential source in the lobby area, and the three walked to the elevators. It is known by investigators that RIVAS had multiple phone conversations with the Confidential Informant. RIVAS, GALLARDO and the CS were then observed entering Room 706. GALLARDO was observed entering room 706 with the red and black Nike Air backpack. The confidential informant was observed to be empty handed.

9. At approximately 1920 hours, an HSI undercover agent (UCA1) made a telephone call to RIVAS to see the narcotics. After seeing the narcotics, UCA1 and CS exited the room without the black and red Nike backpack. RIVAS and GALLARDO were taken into custody in room #706. In plain view and located on the floor of room #706 were what appeared to be four (4) kilograms of heroin and three (3) kilograms of fentanyl. RIVAS and GALLARDO were also found to be in possession of the following three (3) cellular telephones: RIVAS had one (1) black iPhone and three (3) LG flip phones; GALLARDO had (1) pink and white iPhone.

10. On that same date, surveillance was conducted on the Volkswagen Passat. PSP conducted a probable cause traffic stop on the Volkswagens Passat and arrested LOPEZ and GONZALEZ in violation of Title 21 United States Code, Sections 841(a)(1). LOPEZ and GONZALEZ were found to be in possession of the following telephones: GONZALEZ had one (1) red and black iPhone and one (1) Samsung Cellular telephone with IMEI #355417/09/872443/5 printed on the back; LOPEZ has one (1) back and silver LG cellular telephone and (1) black and gray LG cellular telephone.

11. Based on these circumstances, and your affiant's training and experience, it is apparent that RIVAS, GALLARDO, GONZALEZ and LOPEZ are involved in large scale narcotics distribution, and dealing in proceeds from unlawful activities. Your affiant also believes that based on the facts and circumstances set forth above, together with what your affiant has stated above, it is my opinion that there is probable cause to believe that the items sought to be searched for and seized as described on page one of this application, will be located within the cellular phones described, also as listed on page one of this application.

12. Based on the above information, which your affiant believes to be both true and correct, a search warrant is requested for the aforementioned five (5) cellular telephones.

PROPERTY TO BE SEIZED

13. Your Affiant believes Phone 1 through 5 identified above and described in Attachment A, contains evidence, fruits, and instrumentalities of crimes against the United States occurring in this judicial district, specifically, a violation of Title 21 United States Code, Sections based on the following:

a. Based on my training and experience with this investigation and others, as well as information related to me by other law enforcement officers, I know that narcotics cases such as this usually are complex conspiracies involving multiple suspects. These individuals often communicate via cellular telephones, either by calling or texting each other, and they use multiple telephones and occasionally use nicknames or code to avoid detection by law enforcement. In this case, RIVAS, GALLARDO, GONZALEZ and LOPEZ possessed multiple phones. By analyzing call activity, your Affiant may be able to identify accomplices, determine locations of accomplices at critical times, and determine whether accomplices communicated with each other during the commission of their crimes.

b. Based on my training and experience with this investigation and others, as well as information related to me by other law enforcement officers, I know that criminals rarely subscribe to telephones in their own names, making it difficult to link a particular cellular phone, pager, or residence line to a particular criminal associate. A review of telephone's directory is one of the few ways to verify the numbers (that is, the cellular phones, pagers, etc.) being used by specific targets, conspirators, and associates. Additionally, I know that conspirators often use cellular telephones to plan and execute the activities related to their fraud schemes. Therefore the electronic libraries in cellular telephones often show associations between co-conspirators.

c. Based on my training and experience with this investigation and others, as well as information related to me by other law enforcement officers, cellular telephone possessors frequently use the features on their devices, including the contact list, address book, and text messaging, to further their criminal activities.

d. Based on my training and experience with this investigation and others, as well as information related to me by other law enforcement officers, cellular telephone possessors also use their cellphones to browse the internet and to conduct Internet searches, such as through "Google". Additionally, many criminals use their cellular telephones to take videos and photographs of themselves, their co-conspirators, and evidence of their crimes, and retain the images on their cellular telephones. Such images might reveal associations between accomplices.

e. Based on my training, experience, and research, I know that the Phones 1 through 5 have capabilities which allow both to serve not only as telephones, but also digital cameras, mobile Internet access devices, portable media players, GPS navigation devices, and personal address books and calendars. In my training and experience, examining data stored on devices such as these can uncover, among other things, evidence that reveals or suggests who possessed or used the device.

TECHNICAL TERMS

14. Based on my training and experience, I use the following technical terms to convey the following meanings:

a. **Wireless telephone:** A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones. A wireless telephone usually contains a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system ("GPS") technology for determining the location of the device.

b. **Digital camera:** A digital camera is a camera that records pictures as digital picture files, rather than by using photographic film. Digital cameras use a variety of fixed and removable storage media to store their recorded images. Images can usually be retrieved by connecting the camera to a computer or by connecting the removable storage medium to a separate reader. Removable storage media include various types of flash memory cards or miniature hard drives. Most digital cameras also include a screen for viewing the stored images. This storage media can contain any digital data, including data unrelated to photographs or videos.

c. **Portable media player:** A portable media player (or “MP3 Player” or iPod) is a handheld digital storage device designed primarily to store and play audio, video, or photographic files. However, a portable media player can also store other digital data. Some portable media players can use removable storage media. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can also store any digital data. Depending on the model, a portable media player may have the ability to store very large amounts of electronic data and may offer additional features such as a calendar, contact list, clock, or games.

d. **GPS:** A GPS navigation device uses the Global Positioning System to display its current location. It often contains records the locations where it has been. Some GPS navigation devices can give a user driving or walking directions to another location. These devices can contain records of the addresses or locations involved in such navigation. The Global Positioning System (generally abbreviated “GPS”) consists of 24 NAVSTAR satellites orbiting the Earth. Each satellite contains an extremely accurate clock. Each satellite repeatedly transmits by radio a mathematical representation of the current time, combined with a special sequence of numbers. These signals are sent by radio, using specifications that are publicly available. A GPS antenna on Earth can receive those signals. When a GPS antenna receives signals from at least four satellites, a computer connected to that antenna can mathematically calculate the antenna’s latitude, longitude, and sometimes altitude with a high level of precision.

e. **PDA:** A personal digital assistant, or PDA, is a handheld electronic device used for storing data (such as names, addresses, appointments or notes) and utilizing computer programs. Some PDAs also function as wireless communication devices and are used to access the Internet and send and receive e-mail. PDAs usually include a memory card or other removable storage media for storing data and a keyboard and/or touch screen for entering data. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can store any digital data. Most PDAs run computer software, giving them many of the same capabilities as personal computers. For example, PDA users can work with word-processing documents, spreadsheets, and presentations. PDAs may also include global positioning system (“GPS”) technology for determining the location of the device.

f. **IP Address:** An Internet Protocol address (or simply “IP address”) is a unique numeric address used by computers on the Internet. An IP address is a series of four numbers, each in the range 0-255, separated by periods (e.g., 121.56.97.178). Every computer attached to the Internet computer must be assigned an IP address so that Internet traffic sent from and directed to that computer may be directed properly from its source to its destination. Most Internet service providers control a range of IP addresses. Some computers have static—that is, long-term—IP addresses, while other computers have dynamic—that is, frequently changed—IP addresses.

g. **Internet:** The Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections

between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state.

In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device.

ELECTRONIC DEVICES AND STORAGE

15. As described above, this application seeks permission to search and seize things that the cellular telephones identified above might contain, in whatever form they are stored. Based on my experience and training, as well as the experience and training of other agents, I know that electronic devices can store information for long periods of time. Even when a user deletes information from a device, it can sometimes be recovered with forensics tools. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device. This information can sometimes be recovered with forensics tools.

16. *Forensic evidence.* As further described above, this application seeks permission to locate not only electronically stored information that might serve as direct evidence of the crimes described on the warrant, but also forensic evidence that establishes how the cellular telephones and laptop were used, the purpose of their use, who used them, and when. There is probable cause to believe that this forensic electronic evidence might be on the cellular telephones and laptop because:

a. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file). Virtual memory paging systems can leave traces of information on the storage medium that show what tasks and processes were recently active. Web browsers, e-mail programs, and chat programs store configuration information on the storage medium that can reveal information such as online nicknames and passwords. Operating systems can record additional information, such as the attachment of peripherals, the attachment of USB flash storage devices or other external storage media, and the times the computer was in use. Computer file systems can record information about the dates files were created and the sequence in which they were created.

b. Forensic evidence on a device can also indicate who has used or controlled the device. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence.

c. A person with appropriate familiarity with how an electronic device works may, after examining this forensic evidence in its proper context, be able to draw conclusions about how electronic devices were used, the purpose of their use, who used them, and when.

d. The process of identifying the exact electronically stored information on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. Electronic evidence is not always data that can be merely reviewed by a review team and passed along to

investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

e. Further, in finding evidence of how a device was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium.

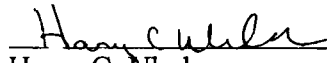
17. *Nature of examination.* Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit the examination of the device consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the device to human inspection in order to determine whether it is evidence described by the warrant.

18. *Manner of execution.* Because this warrant seeks only permission to examine a device already in law enforcement's possession, the execution of this warrant does not involve the physical intrusion onto a premises. Consequently, I submit there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night.

CONCLUSION

19. Based upon the foregoing, I submit that there is probable cause to believe that there is and will be evidence, fruits, and instrumentalities of crimes against the United States occurring in this judicial district, specifically, violations of Title 21, United States Code, Section 841, contained in the phones. I respectfully request that the Court issue a search warrant for this information described above.

Having signed this affidavit under oath, as to all assertions and allegations contained herein, I state that its contents are true and correct to the best of my knowledge, information and belief.


Harry C. Ubele
Special Agent, Homeland Security Investigations

Subscribed to and sworn before
me this 29 day of
August 29, 2018


HONORABLE TIMOTHY R. RICE
United States Magistrate Judge

ATTACHMENT A

One Samsung cellular phone IMEI #355417 09 872443 5 ("Phone 1") ; and

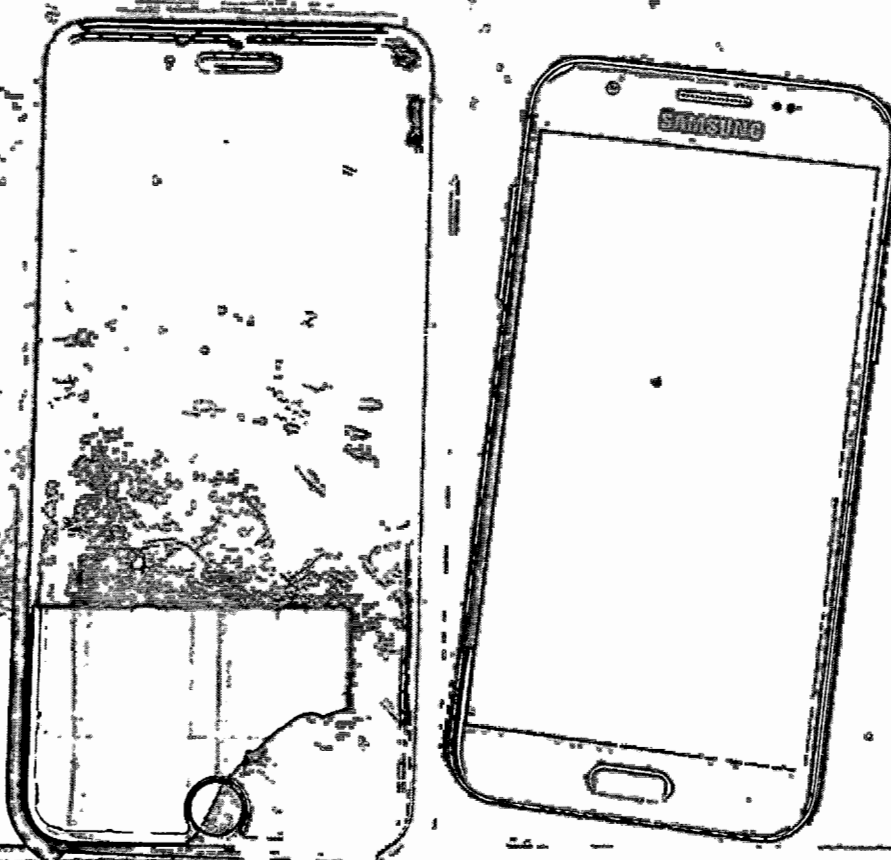
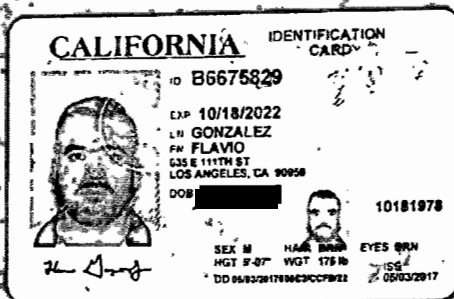
One iPhone, red and black in color, ("Phone 2"); and

One LG cellular telephone, black and silver in color ("Phone 3"); and

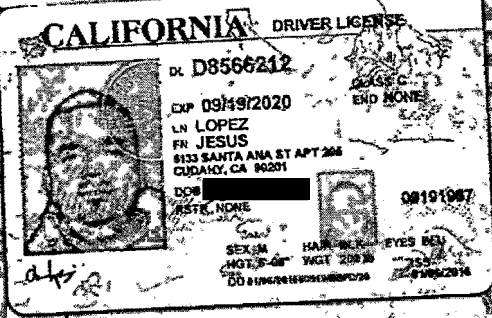
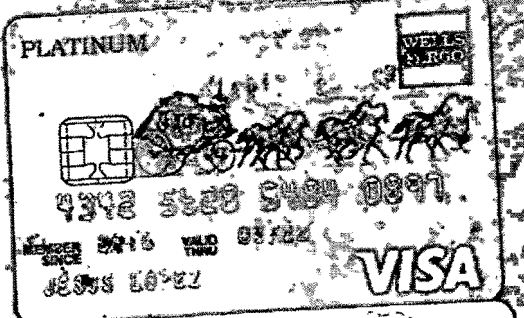
One LG cellular telephone, black and gray in color ("Phone 4"); and

One iPhone, pink and white in color, ("Phone 5")

See attached Photos of Phones #1 through #5.



PHONE #1 AND #2



leave a key
help save a life

extended
STAY
AMERICA



CORREO INTERNACIONAL
3493 ROLL DR. #210
SAN DIEGO, CA 92154
OFFICE: 619 671.8821
FAX: 619.671.1012

Home
UPS 2nd Bn. Air Letter Residential
Via 10
JUAN ALLEGAS
352 PINE TREE ROAD
TOWNSEND, DE 19734
Package ID: 39515 55.02
Tracking #: 1Z71RR220292566474
Expected arrival Fri 03/02 11:59 AM

SUBTOTAL	55.02
TOTAL	55.02
AND Cash	60.02
CHANGE	5.00

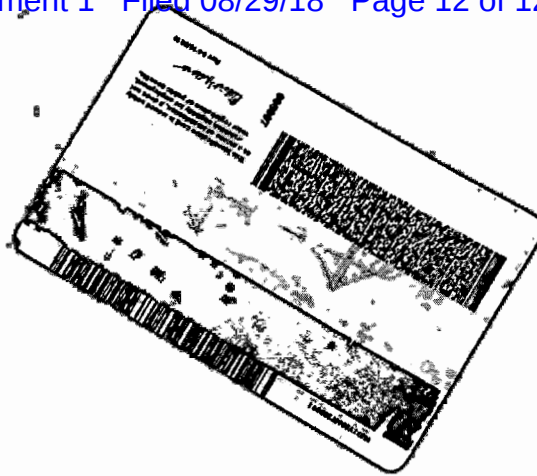
Total Shipments: 1
FIR BARAJAS: CORREO INTERNACIONAL
02/28/2018
11:54 AM
Workstation: Auxiliary workstation 2

1. Return to sender if not delivered
the carrier(s)

Thank you for your business.
Please note: All sales are final.
There is a 3 day refund policy for
P.O. Box rentals ONLY.
50 cent fee will be added to all credit
purchases under \$10.00



PHONE # 3 AND #4



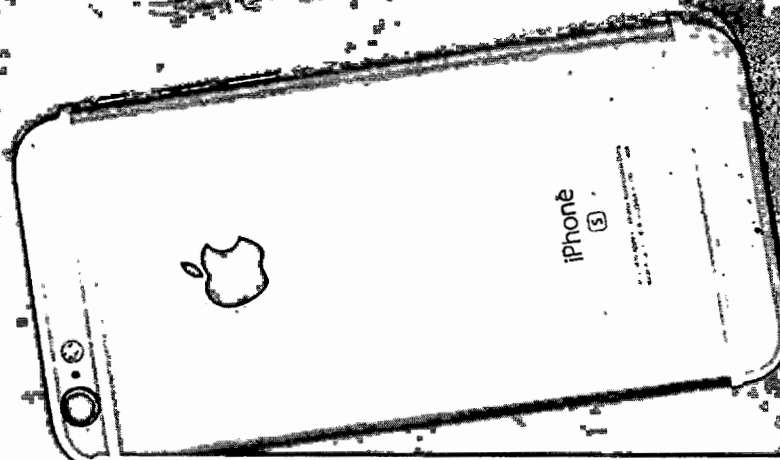
AMERICAN AIRLINES BOARDING PASS

GALEARDI/RICHARD
NASHVILLE
PHILADELPHIA
19AUG18
AA 635
19AUG2277
GROUP 5
SEAT 5A
5A NO
GROUP

BOARDING PASS
DOORS CLOSE 10 MIN PRIOR TO DEPARTURE

MAIN
00125432563415
2 001 7126418497 5

STAPLE HERE



PHONE # 5